

(26,070)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1917.

No. 603.

RAY CONSOLIDATED COPPER COMPANY,
PLAINTIFF IN ERROR,

vs.

DAN VEAZEY.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF ARIZONA.

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1 *Complaint.*

In the United States District Court for the District of Arizona.

No. 163 (Phx.).

DAN VEAZEY, Plaintiff,

vs.

THE RAY CONSOLIDATED COPPER COMPANY, a Corporation,
Defendant.

The plaintiff, Dan Veazey, by Struckmeyer and Jenckes, his attorneys, complaining of the defendant, The Ray Consolidated Copper Company, for cause of action against the defendant alleges:

I.

That the plaintiff is now and at the time of the grievances hereinafter mentioned was a citizen of the State of Arizona, and that the defendant, The Ray Consolidated Copper Company, now is and at the time of the grievances hereinafter mentioned was a corporation duly organized and doing business under and by virtue of the laws of the State of Maine, and that the matter in controversy in this action, exclusive of interest and costs, exceeds the sum of Three Thousand Dollars.

II.

That heretofore on to-wit, the 10th day of February, 1916, at to-wit: in the County of Gila, State of Arizona, the defendant was the owner of and then and there operated a certain ore reduction works or mill, wherein steam, electricity and other mechanical power was then and there used to operate machinery and appliances in and about such premises, and defendant was then and there constructing within said mill or reduction works a certain appliance or apparatus known as a "flotation system."

III.

2 That on the day aforesaid, to-wit, the 10th day of February, 1916, the defendant then and there had in its employ the plaintiff working in and about said mill or reduction works; that plaintiff was then and there particularly employed by defendant as a millwright and carpenter in and about the construction of the aforesaid "flotation system." That the plaintiff on the day aforesaid while then and there in the exercise of reasonable care for his own safety, suffered severe personal and bodily injuries by an accident arising out of and in the course of such labor, service and employ-

ment, and due to a condition or conditions of such occupation or employment, the said injuries being sustained in the manner following, to-wit: plaintiff in the due course of his said labor, service and employment was standing upon a certain timber or joist incorporated in said "flotation system" engaged in bolting and fastening together the timbers thereof. That the said timber or joist upon which plaintiff was then and there standing was then and there elevated above the ground or floor of said mill or reduction works a distance of approximately ten feet. That while so engaged as aforesaid, plaintiff slipped from said timber or joist and fell to the ground and plaintiff's body and limbs struck with great force and violence upon the floor of said mill or reduction works, which said floor was then and there composed of concrete. That at all times above set forth, plaintiff exercised due care for his own safety.

IV.

That by reason of the premises aforesaid and by reason of the force and violence with which plaintiff's said body and limbs came in contact with said concrete floor in so falling thereto as aforesaid, plaintiff sustained severe personal and bodily injuries in this: plaintiff's right wrist was broken and the bones thereof crushed, and the bones and cartilages of plaintiff's left knee were broken and dislocated, and as a result of said injuries plaintiff's said right hand and wrist have become stiffened and the action and movement thereof

impaired, and by reason thereof plaintiff has not now and
3 never again will have the full, free and natural use of said hand and wrist; that as a result of said injuries the motion and action of plaintiff's said left knee is greatly impaired and plaintiff can not stand upright or walk without the exercise of great care and caution to avoid injury to his said left knee. That said injuries are permanent. That by reason thereof plaintiff will forever remain sick, sore, lame and crippled, and by reason of said injuries plaintiff's ability to earn a living at his usual vocation in life, to-wit: the trade of millwright and carpenter, has been greatly impaired and by reason thereof plaintiff did suffer and will forever continue to suffer great physical and mental pain and anguish.

V.

By reason of which premises and by virtue of the laws of the State of Arizona in such case made and provided, namely: by virtue of the provisions of Chapter 6, Title 14, Revised Statutes of the State of Arizona, 1913, relating to the "liability of employers for injuries to workmen in divers occupations" defendant is liable in damages to plaintiff for such injuries so by him sustained, and plaintiff alleges that by reason of said injuries he has sustained damages in the sum of Ten Thousand Dollars (\$10,000.00).

Wherefore, plaintiff prays judgment against the defendant for the sum of Ten Thousand Dollars (\$10,000.00) and for his costs of suit herein incurred.

STRUCKMEYER & JENCKES,
Attorneys for Plaintiff.

Endorsements: "No. —. In the United States District Court in and for the District of Arizona. Dan Veazey, Plaintiff, vs. The Ray Consolidated Copper Company, a corporation, Defendant. Complaint. Filed Oct. 28 1916 at — M. Mose Drachman, Clerk. By Evelyn M. Larson, Deputy. Struckmeyer & Jenckes, Attorneys for Plaintiff. Goodrich Building, Phoenix, Arizona."

4

Answer.

In the United States District Court in and for the District of Arizona.

DAN VEAZEY, Plaintiff,

vs.

THE RAY CONSOLIDATED COPPER COMPANY, a Corporation,
Defendant.

Comes now the defendant in above entitled cause and demurs to and answers the complaint of plaintiff filed herein, as follows:—

1. Demurs to said complaint upon the ground that same does not state facts sufficient to constitute a cause of action.

2. Demurs to said complaint upon the ground that recovery is therein sought under and by virtue of Chapter 6, Title 14, Revised Statutes of Arizona, 1913, Civil Code, said Act being entitled: "Liability of Employers for Injuries to Workmen in Dangerous Occupations", and that said Act is unconstitutional and void and contrary to and in violation of the 14th Amendment to the Constitution of the United States in that said Act is an attempt to deprive this defendant of its property without due process of law, and denies to this defendant the equal protection of the laws.

3. Should the foregoing demurrer be overruled, this defendant further answers said complaint and alleges, denies and admits as follows:—

a. Admits all of the allegations in Paragraph I of said complaint contained, and admits that during the times in said complaint mentioned said plaintiff was in the employ of said defendant at a

5 certain plant then and there operated by defendant and that on the 10th of February, 1916, plaintiff met with an accident.

b. Denies each and every allegation in said complaint contained not hereinbefore expressly admitted.

c. Further answering said complaint and as a separate and affirmative defense thereto, this defendant alleges that if plaintiff was injured as in said complaint alleged, it was by reason of his own carelessness and negligence which directly and proximately contributed thereto.

d. Further answering said complaint and as a separate and affirmative defense thereto, this defendant alleges that if plaintiff was injured as in said complaint alleged it was by reason of certain dangers, risks and hazards then and there present and which had theretofore been and were then and there by him assumed.

e. Further answering said complaint and as a separate and affirmative defense thereto, defendant alleges that each and every cause of action in said complaint set forth and the recovery therein prayed for is expressly based upon and by plaintiff claimed under and by virtue of the provisions of Chapter 6, Title 14, of the Revised Statutes of Arizona, 1913, being an Act entitled: "Liability of Employers for Injuries to Workmen in Dangerous Occupations", and that said Act is null and void and contrary to and in violation of the 14th Amendment to the Constitution of the United States, in that said Act is an attempt to impose upon this defendant liability for injuries that may have been sustained by plaintiff without fault or negligence on the part of this defendant and in that it is an attempt to deprive this defendant of its property without due process of law, and denies to this defendant the equal protection of the laws.

6 Wherefore having fully answered said complaint, defendant prays that plaintiff take nothing thereunder, that same be dismissed and that it have judgment in its favor and against plaintiff for its costs herein necessarily expended.

WILLIAM H. KING,
CHALMERS, KENT & STAHL,
Attorneys for Defendant.

Endorsements: "(Original.) No. —. In the United States District Court, in and for the District of Arizona. Dan Veazey, Plaintiff, vs. The Ray Consolidated Copper Company, a corporation, Defendant. Answer. Received copy of the within Answer this 17th day of November, 1916. Struckmeyer & Jenckes, Attorney- for Plaintiff. Filed Nov. 17 1916 at — M. Mose Drachman, Clerk. By R. E. L. Webb, Deputy."

7 *Minute Entry Appearing under Date of Friday, March 2, 1917.*

In the United States District Court for the District of Arizona.

No. 163 (Phoenix).

DAN VEAZEY, Plaintiff,

vs.

RAY CONSOLIDATED COPPER COMPANY, Defendant.

The demurrer of defendant to the complaint of plaintiff coming on for argument, J. S. Jenckes, Esq., of counsel for plaintiff, and H. M. Fennemore, Esq., of counsel for defendant, appearing in open Court and the Court having heard the arguments of counsel, orders that said demurrer be and the same is hereby sustained as to Paragraph III of said complaint and overruled as to the remaining paragraphs thereof, to which defendant excepts.

8

Amended Complaint.

In the United States District Court for the District of Arizona.

No. 163.

DAN VEAZEY, Plaintiff,

vs.

THE RAY CONSOLIDATED COPPER COMPANY, a Corporation,
Defendant.

The plaintiff, Dan Veazey, by Struckmeyer and Jenckes, his attorneys, complaining of the defendant, The Ray Consolidated Copper Company, for cause of action against the defendant alleges:

I.

That the plaintiff is now and at the time of the grievances hereinafter mentioned was a citizen of the State of Arizona, and that the defendant, The Ray Consolidated Copper Company, now is and at the time of the grievances hereinafter mentioned was a corporation duly organized and doing business under and by virtue of the laws of the State of Maine, and that the matter in controversy in this action, exclusive of interest and costs, exceeds the sum of Three Thousand Dollars.

II.

That heretofore on to-wit, the 10th day of February, 1916, at to-wit: in the County of Gila, State of Arizona, the defendant was the owner of and then and there operated a certain ore reduction works or mill, wherein steam, electricity and other mechanical power was then and there used to operate machinery and appliances in and about such premises, and defendant was then and there constructing within said mill or reduction works a certain appliance or apparatus known as a "flotation system."

9

III.

That on the day aforesaid, to-wit, the 10th day of February, 1916, the defendant then and there had in its employ the plaintiff working in and about said mill or reduction works; that plaintiff was then and there particularly employed by defendant as a millwright and carpenter in and about the construction of the aforesaid "flotation system." That the plaintiff on the day aforesaid suffered severe personal and bodily injuries by an accident arising out of and in the course of such labor, service and employment, and due to a condition or conditions of such occupation or employment, and which said injuries were not caused by the negligence of the plaintiff; the said

injuries being sustained in the manner following, to-wit: plaintiff in the due course of his said labor, service and employment was standing upon a certain timber or joist incorporated in said "flotation system" engaged in bolting and fastening together the timbers thereof. That the said timber or joist upon which plaintiff was then and there standing was then and there elevated above the ground or floor of said mill or reduction works a distance of approximately ten feet. That while so engaged as aforesaid, plaintiff slipped from said timber or joist and fell to the ground and plaintiff's body and limbs struck with great force and violence upon the floor of said mill or reduction works, which said floor was then and there composed of concrete. That at all times above set forth, plaintiff exercised due care for his own safety.

IV.

That by reason of the premises aforesaid and by reason of the force and violence with which plaintiff's said body and limbs came in contact with said concrete floor in so falling thereto as aforesaid, plaintiff sustained severe personal and bodily injuries in this: plaintiff's right wrist was broken and the bones thereof crushed, and the bones and cartilages of plaintiff's left knee were broken and dislocated, and

10 as a result of said injuries plaintiff's said right hand and wrist have become stiffened and the action and movement thereof impaired, and by reason thereof plaintiff has not now and never again will have the full, free and natural use of said hand and wrist; that as a result of said injuries the motion and action of plaintiff's said left knee is greatly impaired and plaintiff can not stand upright or walk without the exercise of great care and caution to avoid injury to his said left knee. That said injuries are permanent. That by reason thereof plaintiff will forever remain sick, sore, lame and crippled, and by reason of said injuries plaintiff's ability to earn a living at his usual vocation in life, to-wit: the trade of millwright and carpenter, has been greatly impaired and by reason thereof plaintiff did suffer and will forever continue to suffer great physical and mental pain and anguish.

V.

By reason of which premises and by virtue of the laws of the State of Arizona in such case made and provided, namely: by virtue of the provisions of Chapter 6, Title 14, Revised Statutes of the State of Arizona, 1913, relating to the "liability of employers for injuries to workmen in divers occupations" defendant is liable in damages to plaintiff for such injuries so by him sustained, and plaintiff alleges that by reason of said injuries he has sustained damages in the sum of Ten Thousand Dollars (\$10,000.00).

Wherefore, plaintiff prays judgment against the defendant for the sum of Ten Thousand Dollars (\$10,000.00) and for his costs of suit herein incurred.

STRUCKMEYER & JENCKES,
Attorneys for Plaintiff.

Endorsements: "No. —. In the United States District Court in and for the District of Arizona. Dan Veazey, Plaintiff, vs. The Ray Consolidated Copper Company, a corporation, Defendant. Amended complaint. Filed Mar. 3 1917 at — M. Mose Drachman, Clerk. By Ethel A. Webb, Deputy. Struckmeyer & Jenckes, Attorneys for Plaintiff, Goodrich Building, Phoenix, Arizona. Rec'd copy of within Amended Complaint March 3rd, 1917. Chalmers, Kent & Stahl, Att'ys for defendant."

11 *Minute Entry Appearing under Date of Monday, April 2, 1917.*

In the United States District Court for the District of Arizona.

No. 163 (Phoenix).

DAN VEAZEY, Plaintiff,

vs.

RAY CONSOLIDATED COPPER COMPANY, Defendant.

The plaintiff having heretofore filed his amended complaint in the above entitled cause, the defendant in open court elects to stand upon the demurrer and answer to plaintiff's original complaint as demurrer and answer to plaintiff's amended complaint, and the said demurrer to the plaintiff's amended complaint is overruled, to which defendant duly excepts.

12 *Minute Entry Appearing under Date of Thursday, April 5, 1917.*

In the United States District Court for the District of Arizona.

No. 163 (Phoenix).

DAN VEAZEY, Plaintiff,

vs.

RAY CONSOLIDATED COPPER COMPANY, Defendant.

The above entitled cause came on regularly for trial this day, F. C. Struckmeyer, Esquire, appearing upon behalf of the plaintiff, and H. M. Fennemore, Esquire, and F. M. Stahl, Esquire, counsel for the defendant, being present in open Court, and both sides announce themselves ready for trial. Whereupon, the Court directs the Clerk to draw from the Jury Box the names of 18 jurors, their names are called and all answering thereto, respectively, take their places in the jury box. D. A. Little is duly sworn as Court Reporter in this case. Thereupon, said jurors are duly sworn on their voir dire and examined as to their qualifications and all are found to be

qualified and are accepted by both sides. Whereupon, both sides exercise their right to strike and the remaining 12 names on the list are selected by the Clerk, as follows, to-wit: A. Champagne, Clyde W. Hunt, E. J. Jordan, J. M. Hall, J. A. Rollins, Chas. G. Cooper, Henry Wentworth, A. L. West, Wm. P. Cooper, Carl Anderson, W. I. Davidson and Lee Pritt, who are duly sworn to well and truly try the issue joined between the plaintiff and defendant herein.

Whereupon, counsel for the defendant make the following objection:

13 “If the Court please, we object to any statement of the plaintiff or the introduction of any evidence in this case, on the ground that this action is brought under the provisions of what is known as the Employers’ Liability Act, which is Chapter 6, Title 14, of the Revised Statutes of Arizona, 1913, entitled An Act Providing for Liability of Employers for Injuries to Workmen in Dangerous Occupations, on the ground that this act under which the action is brought is unconstitutional and in violation of the Fourteenth Amendment to the Constitution of the United States and that it will deprive the defendant of its property without due process of law and would deny to the defendant the equal protection of the law and that the amended complaint brought under this act does not state facts sufficient to constitute a cause of action, for the reason that the act under which the amended complaint is brought is unconstitutional.”

and, upon consideration thereof by the Court,

It is ordered that said objection be and the same is overruled and denied, to which ruling and action of the Court the defendant excepts.

Whereupon, the amended complaint of the plaintiff is read aloud to the jury by F. C. Struckmeyer, Esquire, and, thereupon, H. M. Fennemore, Esquire, reads aloud to the jury the answer of the defendant thereto.

The plaintiff then, to maintain upon his part the issue herein, calls Dennis T. Veasey and William H. Sargent as witnesses upon behalf of the plaintiff, and they are duly sworn, examined and cross-examined. Plaintiff offers in evidence exhibits A and B, being x-ray photographs, which are objected to by counsel for the defendant; and, upon consideration thereof by the Court,

It is ordered that said objections by the defendant to the admission of said exhibits be and the same are hereby overruled, to which ruling and action of the Court the defendant, by counsel, excepts. Whereupon, said exhibits are ordered admitted and filed. O. E. Plath is duly sworn as a witness upon behalf of the plaintiff, examined and cross-examined. Whereupon, plaintiff, reserving the

14 right to introduce in evidence the American Mortality Table, counsel for both sides having stipulated in open Court that same may be admitted later, rests his case.

F. M. Stahl, Esquire, one of counsel for the defendant herein, thereupon, moves the Court for a directed verdict in favor of the de-

fendant; same is argued by counsel; and, upon consideration thereof by the Court,

It is ordered that said motion be and the same is hereby denied.

The defendant then to maintain upon its part the issue herein, calls H. R. Christie as a witness upon behalf of the defendant and he is duly sworn, and examined in part.

The hour for adjournment having arrived and the trial of the case not being completed, the Court admonishes the jury and orders the further trial hereof adjourned and continued until Friday, the 6th day of April, A. D. 1917, at the hour of 9:30 o'clock A. M.

15 *Minute Entry Appearing under Date of Friday, April 6, 1917.*

In the United States District Court for the District of Arizona.

No. 163 (Phoenix).

DAN VEAZEY, Plaintiff,

vs.

RAY CONSOLIDATED COPPER COMPANY, Defendant.

Pursuant to an order of continuance made on yesterday, trial of the above entitled cause is this day resumed, F. C. Struckmeyer, Esquire, counsel for the plaintiff, and F. M. Stahl, Esquire, and H. M. Fennemore, Esquire, counsel for the defendant, the Court Reporter and all jurors being present in open Court.

Whereupon, H. R. Christie is recalled to the stand for completion of his examination as a witness upon behalf of the defendant and he is examined and cross-examined. W. Warner Watkins is duly sworn as a witness upon behalf of the defendant and is examined and cross-examined. Thereupon, the defendant offers in evidence defendant's exhibits Nos. 1 and 2, being certain x-ray photographs, which said exhibits are objected to by counsel for the plaintiff; and upon consideration thereof by the Court,

It is ordered that said objection be and the same is hereby sustained and the said exhibits are ordered excluded from the record, to which ruling and action of the Court counsel for the defendant excepts. Whereupon, E. Payne Palmer, Robert B. Tarbat, Samuel H. Kirk and Charles H. Thew are duly sworn as witnesses upon behalf of the defendant and are examined and cross-examined. Thereupon, the defendant rests its case.

16 There being no further testimony offered and the evidence being closed, argument of counsel is had, and requests in writing for instructions to the jury are made by the Court by both parties, and each party thereupon moves the Court to instruct the jury in accordance with such respective requests, and the Court having considered such requests, endorses his ruling in writing thereon and orders same filed with records in this cause. Thereupon, counsel for plaintiff except to the ruling of the court in refusing to instruct the

jury in each instance where such plaintiff's request was denied by the Court, and the defendant duly excepts to the ruling of the Court in each instance where the defendant's request was denied by the Court; and the Court instructs the jury orally, the delivery of written instructions having in open Court been expressly waived. Whereupon, said jury, in charge of their bailiff, A. J. Stark, first duly sworn for such purpose, retire to their room to consider of their verdict.

The hour for adjournment having arrived and the jury herein having not agreed upon a verdict, consent of counsel for both sides having first been obtained, the Court admonishes said jury and grants them permission to separate until tomorrow morning, Saturday, April 7, 1917, at the hour of 9:30 o'clock.

17 *Minute Entry Appearing under Date of Saturday, April 7, 1917.*

In the United States District Court for the District of Arizona.

No. 163 (Phoenix).

DAN VEAZEY, Plaintiff,

vs.

RAY CONSOLIDATED COPPER COMPANY, Defendant.

Pursuant to an order of continuance made on yesterday, trial of the above entitled cause is this day resumed, F. C. Struckmeyer, Esquire, counsel for the plaintiff, and F. M. Stahl, Esq., and H. M. Fennemore, Esquire, counsel for the defendant, and all jurors being present in open Court. Whereupon, said jury, in charge of their bailiff, again retire to consider of their verdict. After a short time, said jury, in charge of their bailiff, return into open court, and upon being asked if they have agreed upon a verdict, through their foreman, state that they have agreed. Whereupon, said jury, through their foreman, present their verdict, which is ordered spread upon the minutes of the Court in full, as follows, to-wit:

"DAN VEAZEY, Plaintiff,

against

THE RAY CONSOLIDATED COPPER COMPANY, Defendant.

Verdict.

We, the Jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find for the Plaintiff and assess his damages at (3,000) Three thousand Dollars.

J. M. HALL, Foreman."

and the clerk inquiring of said jury if such is their verdict, they state that it is and so say they all. Thereupon, said jury is ordered discharged from the case.

18 Whereupon, it is ordered, adjudged and decreed that judgment be entered in favor of the plaintiff and against the defendant herein in the sum of \$3,000.00, in accordance with the verdict of the said jury, to which order defendant duly excepts.

19 *Requests of Defendant for Instructions to Jury.*

In the United States District Court for the District of Arizona.

No. 163.

DAN VEAZEY, Plaintiff,

VS.

THE RAY CONSOLIDATED COPPER COMPANY, a Corporation,
Defendant.

Comes now the defendant in the above entitled cause and hereby moves the Court to charge the jury as set forth in its request Number 1 and bases its said motion to so charge as set forth in said request Number 1 upon the grounds set forth immediately following said request.

Number 1.

The jury is hereby instructed and directed to render a verdict in favor of the Defendant and against the Plaintiff herein.

The foregoing motion to direct the jury to render a verdict in favor of the Defendant and against Plaintiff is made and based upon the following grounds:

(a) That the cause of action in the Amended Complaint of the plaintiff upon which he is now relying, is expressly based upon and recovery is therein expressly sought under the provisions of Chapter 6, Title 14, Revised Statutes of Arizona, 1913, Civil Code, said Act being entitled: "Liability of Employers for Injuries to Workmen in Dangerous Occupations." That said Act is unconstitutional and void and Plaintiff is entitled to no recovery or relief thereunder for the reason that said Act imposes upon this Defendant unlimited liability for injury or injuries sustained by Plaintiff without fault or negligence on the part of this Defendant, and said Act is contrary to and in violation of the Fourteenth Amendment to the Constitution of the United States in that it deprives this Defendant of its property without due process of law and denies to this Defendant the equal protection of the laws.

20 Endorsements: "Refused. Wm. H. Sawtelle, Judge." "No. 163—Phx. In the United States District Court, for the District of Arizona. Dan Veazey, Plaintiff vs. The Ray Consolidated Copper

Company, a corporation, Defendant. Requests of Defendant for Instructions to Jury. Filed Apr. 17 1917 at — M. Mose Drachman, Clerk. By R. E. L. Webb, Deputy. Chalmers, Kent & Stahl, Attorneys and Counsellors at Law, 205-208 Fleming Block, Phoenix, Arizona, Attorneys for Defendant."

21 *Minute Entry Appearing under Date of Monday, April 16, 1917.*

In the United States District Court for the District of Arizona.

No. 163 (Phoenix).

DAN VEAZEY, Plaintiff,

vs.

RAY CONSOLIDATED COPPER COMPANY, Defendant.

Comes now the defendant in the above entitled cause by his attorneys of record, and makes application of the court for an order extending the time in which the defendant may prepare and serve bill of exceptions in this case, and thereupon the Court duly orders that the time in which the defendant may prepare and serve his bill of exceptions herein is extended up to and including May 16, 1917.

22 In the United States District Court for the District of Arizona.

No. 163.

DAN VEAZEY, Plaintiff,

vs.

THE RAY CONSOLIDATED COPPER COMPANY, a Corporation,
Defendant.

Comes now the Defendant, Ray Consolidated Copper Company, and moves the Court that an extension of time be granted to it, the Defendant, until May 21st in which to prepare and serve its Bill of Exceptions on appeal in said cause.

Dated this 9th day of May, A. D., 1917.

CHALMERS, KENT & STAHL,
Attorneys for Defendant.

The above named Plaintiff by his Attorneys consents to the above extension.

STRUCKMEYER & JENCKES,
Attorneys for Plaintiff.

Endorsements: "No. 163. In the United States District Court for the District of Arizona. Dan Veazey, Plaintiff, vs. The Ray Consolidated Copper Company, a corporation, Defendant. Filed May 10th, 1917. Mose Drachman, Clerk. Chalmers, Kent & Stahl, Attorneys and Counsellors at Law, 205-208 Fleming Block, Phoenix, Arizona, Attorneys for Defendant."

23 *Minute Entry Appearing under Date of Thursday, May 10, 1917.*

In the United States District Court for the District of Arizona.

No. 163 (Phoenix).

DAN VEAZEY, Plaintiff,

VS.

RAY CONSOLIDATED COPPER COMPANY, Defendant.

Stipulation of the parties in the above entitled cause having heretofore been filed, agreeing that the time in which the defendant may prepare and serve its bill of exceptions in this case may be extended to and including the 21st day of May, 1917, it is ordered that the said time in which the defendant may prepare and serve its said bill of exceptions is hereby extended, for good cause shown, up to and including the 21st day of May, 1917.

24 *Bill of Exceptions.*

In the District Court of the United States in and for the District of Arizona.

No. 163.

DAN VEAZEY, Plaintiff,

VS.

RAY CONSOLIDATED COPPER COMPANY, a Corporation, Defendant.

Be it remembered that on the 2d day of April, A. D., 1917, the Plaintiff herein having heretofore filed his Amended Complaint, and the Defendant having on this day elected in open court to stand upon its Demurrer and Answer to Plaintiff's First Complaint as Demurrer and Answer to the Amended Complaint of Plaintiff, and the Demurrer coming on for argument, and the said Demurrer being as follows, to-wit:

"Demurs to said complaint upon the ground that same does not state facts sufficient to constitute a cause of action.

"Demurs to said complaint upon the ground that recovery is

therein sought under and by virtue of Chapter 6, Title 14, Revised Statutes of Arizona, 1913, Civil Code, said Act being entitled: 'Liability of Employers for Injuries to Workmen in Dangerous Occupations,' and that said Act is unconstitutional and void and contrary to and in violation of the 14th Amendment to the Constitution of the United States in that said Act is an attempt to deprive this defendant of its property without due process of law, and denies to this defendant the equal protection of the laws."

And the Court being advised duly overruled the said demurrer and the whole thereof, to which the said Defendant, by its counsel, duly excepted, which exception was by the Court then and there allowed;

25 And be it further remembered, that on the 5th day of April, 1917, the above entitled cause came on for trial upon the Amended Complaint of the Plaintiff theretofore filed therein, the Defendant having elected to stand upon its Answer to the original Complaint of the Plaintiff theretofore filed therein as Answer to the Amended Complaint.

Whereupon, a jury of twelve men was duly impaneled and sworn to try the cause.

Whereupon, the Defendant, through its attorneys, in the presence of the jury, made the following objection:

"By Mr. Stahl: If the Court please, we object to any statement of the Plaintiff or the introduction of any evidence in this case, on the ground that this action is brought under the provisions of what is known as the Employers' Liability Act, which is Chapter 6, Title 14, of the Revised Statutes of Arizona, 1913, entitled An Act Providing for Liability of Employers for Injuries to Workmen in Dangerous Occupations, on the ground that this act under which the action is brought is unconstitutional and in violation of the Fourteenth Amendment to the Constitution of the United States, in that the act imposes an unlimited liability upon employers and upon this Defendant without any fault on its part and that the act violates the Fourteenth Amendment to the Constitution of the United States and that it will deprive the Defendant of its property without due process of law and would deny to the Defendant the equal protection of the law and that the amended complaint brought under this act does not state facts sufficient to constitute a cause of action, for the reason that the act under which the amended complaint is brought is unconstitutional."

Whereupon, the said objection of the Defendant was overruled and denied by the Court, and exception to the said ruling of the Court was thereupon taken by the Defendant, which exception was by the Court then and there allowed.

Whereupon, evidence on the part of the Plaintiff was duly introduced, and evidence on the part of the Defendant was duly introduced, and upon the completion of the introduction of testimony on behalf of the Defendant, and both parties having rested their case,

26 the Defendant, by its attorneys, thereupon moved and requested the Court to instruct the jury to return a verdict for the Defendant, said Motion being as follows, to-wit:

"Comes now the Defendant in the above entitled cause and hereby moves the Court to charge the jury as set forth in its request Number 1 and bases its said motion to so charge as set forth in said request Number 1 upon the grounds set forth immediately following said request.

Number 1.

"The jury is hereby instructed and directed to render a verdict in favor of the defendant and against the plaintiff herein.

"The foregoing motion to direct the jury to render a verdict in favor of the defendant and against plaintiff is made and based upon the following grounds:

"(a) That the cause of action in the Amended Complaint of the plaintiff upon which he is now relying, is expressly based upon and recovery is therein expressly sought under the provisions of Chapter 6, Title 14, Revised Statutes of Arizona, 1913, Civil Code, said Act being entitled: 'Liability of Employers for Injuries to Workmen in Dangerous Occupations.' That said Act is unconstitutional and void and plaintiff is entitled to no recovery or relief thereunder for the reason that said Act imposes upon this defendant unlimited liability for injury or injuries sustained by plaintiff without fault or negligence on the part of this defendant, and said Act is contrary to and in violation of the Fourteenth Amendment to the Constitution of the United States in that it deprives this defendant of its property without due process of law and denies to this defendant the equal protection of the laws."

Whereupon, the Court overruled and denied said Motion, to which ruling and denial the Defendant, by its attorneys, duly took exception, which exception was by the Court then and there allowed.

Whereupon, after receiving instructions from the Court the jury retired and considered of its verdict and returned in to Court its verdict finding the issues in the cause in favor of the Plaintiff and against the Defendant, and assessing the Plaintiff's damages at the sum of Three Thousand (\$3,000) Dollars.

Wherefore, Defendant prays that this its Bill of Exceptions may be allowed, settled and signed.

WILLIAM H. KING,
CHALMERS, KENT & STAHL,
Attorneys for Defendant.

Service of copy of foregoing Bill of Exceptions is hereby acknowledged on this date. The Plaintiff has and will have no amendments to propose thereto, agrees that said Bill is true and consents that same may be presented to the Judge of this Court for allowance, settlement and certification without further notice.

Dated this 18th day of May, A. D., 1917.

STRUCKMEYER & JENCKES,
Attorneys for Plaintiff.

I hereby certify that the foregoing Bill of Exceptions is true and same is settled and approved this 24th day of May A. D., 1917, in term.

WM. H. SAWTELLE, *Judge.*

Endorsements: "In the District Court of the United States, in and for the District of Arizona. Dan Veazey, Plaintiff, vs. Ray Consolidated Copper Company, a corporation, Defendant. Bill of Exceptions. Lodged in Clerk's Office May 21, 1917 at — M. Mose Drachman, Clerk. By R. E. L. Webb, Deputy. Filed May 26 1917 at — M. Mose Drachman, Clerk. By R. E. L. Webb, Deputy."

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Petition for Writ of Error.

In the District Court of the United States in and for the District of Arizona.

#163.

DAN VEAZEY, Plaintiff (Defendant in Error),

vs.

RAY CONSOLIDATED COPPER COMPANY, a Corporation, Defendant
(Plaintiff in Error).

To the Honorable William H. Sawtelle, Judge of the District Court aforesaid:

Now comes the Ray Consolidated Copper Company, a corporation organized and existing under and by virtue of the laws of the State of Maine, and the Defendant (Plaintiff in Error) in the above entitled cause, by its attorneys of record, and respectfully shows that the Court erred therein in that on the 2nd day of April, 1916, the Court overruled the Demurrer of this Defendant (Plaintiff in Error) to Plaintiff's (Defendant's in Error) Amended Complaint, and thereafter during the trial of this cause overruled the objection of this Defendant (Plaintiff in Error) to the introduction of any evidence on behalf of Plaintiff (Defendant in Error) and denied the Motion of Defendant (Plaintiff in Error) to instruct the jury as requested by Defendant (Plaintiff in Error) all to the prejudice of the Defendant (Plaintiff in Error) as fully appears in detail from the Assignments of Error which is filed with this Petition; and that on the 7th day of April, A. D., 1917, a jury, duly impaneled, found a verdict against your Petitioner and in favor of Dan Veazey, the Plaintiff (Defendant in Error) above named, and that upon
29 said verdict a final judgment was entered on the 7th day of April, A. D., 1917, against your Petitioner, the Defendant (Plaintiff in Error) herein; and your Petitioner, feeling itself aggrieved by the said errors and said verdict and judgment entered thereon as aforesaid, herewith petitions the Court for an Order allow-

ing it to prosecute Writ of Error to the Supreme Court of the United States under the laws of the United States in such cases made and provided.

Wherefore, the premises considered, your Petitioner prays that a Writ of Error do issue in this behalf out of the Supreme Court of the United States sitting at Washington, D. C. for the correction of the errors complained of and herewith assigned, be allowed, and that an Order be made fixing the amount of security to be given by the Plaintiff in Error conditioned as the law directs, and upon giving such bond as may be required that all further proceedings may be suspended until the determination of said Writ of Error by the Supreme Court of the United States, and that a transcript of the records, proceedings and the papers in this cause, duly authenticated, may be sent to the Supreme Court of the United States aforesaid.

RAY CONSOLIDATED COPPER COMPANY,

By WILLIAM H. KING.

CHALMERS, KENT & STAHL,

Attorneys for Petitioner in Error.

Endorsements: "In the District Court of the United States in and for the District of Arizona. Dan Veazey, Plaintiff (Defendant in Error) vs. Ray Consolidated Copper Company, a corporation, Defendant (Plaintiff in Error). At Law No. 163. Petition for Writ of Error. Service of copy of within acknowledged this — day of June, 1917. — — —, Attorney for Plaintiff (Defendant in Error). Filed June 9th, 1917. Mose Drachman, Clerk."

30 *Assignments of Error and Prayer for Reversal.*

In the District Court of the United States in and for the District of Arizona.

At Law. No. 163.

DAN VEAZEY, Plaintiff (Defendant in Error),

vs.

RAY CONSOLIDATED COPPER COMPANY, a Corporation, Defendant
(Plaintiff in Error).

Now comes the Ray Consolidated Copper Company, Defendant (Plaintiff in Error) in the above numbered and entitled cause and in connection with its Petition for a Writ of Error in this cause assigns the following errors which it avers occurred in the rulings of the Court therein and on the trial thereof and upon which it relies to reverse the Judgment entered herein as appears of record.

I.

That the Court erred in overruling the Demurrer of the Defendant (Plaintiff in Error) to the Amended Complaint filed in this cause, as follows:

"Demurs to said (Amended) Complaint upon the ground that same does not state facts sufficient to constitute a cause of action.

"Demurs to said (Amended) Complaint upon the ground that recovery is therein sought under and by virtue of Chapter 6, Title 14, Revised Statutes of Arizona, 1913, Civil Code, said Act being entitled: 'Liability of Employers for Injuries to Workmen in Dangerous Occupations,' and that said Act is unconstitutional and void and contrary to and in violation of the 14th Amendment to the Constitution of the United States in that said Act is an attempt to deprive this defendant of its property without due process of law and denies to this defendant the equal protection of the laws."

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II.

That the Court erred in overruling the first ground of Demurrer of the Defendant (Plaintiff in Error) to the Amended Complaint of Plaintiff (Defendant in Error) filed in this cause, which said demurrer is upon the ground that said Amended Complaint does not state facts sufficient to constitute a cause of action, and in holding that said Amended Complaint does state a cause of action.

This Assignment is urged for the reason that said Amended Complaint shows on its face that recovery is therein sought under and by virtue of Chapter 6, Title 14, Revised Statutes of Arizona, 1913, entitled "An Act Providing for Liability of Employers for Injuries to Workmen in Dangerous Occupations," which said Act is unconstitutional and in violation of the 14th Amendment to the Constitution of the United States in that the Act imposes an unlimited liability upon employers and upon this Defendant (Plaintiff in Error) without any fault on the part of such employers and of this Defendant (Plaintiff in Error) and that said Act would deprive this Defendant (Plaintiff in Error) of its property without due process of law and would deny to it the equal protection of the laws.

III.

That the Court erred in overruling the second ground of Demurrer of the Defendant (Plaintiff in Error) to the Amended Complaint of the Plaintiff (Defendant in Error) filed in this cause, as follows:

"Demurs to said (Amended) Complaint upon the ground that recovery is therein sought under and by virtue of Chapter 6, Title 14, Revised Statutes of Arizona, 1913, Civil Code, said Act being entitled: 'Liability of Employers for Injuries to Workmen in Dangerous Occupations,' and that said Act is unconstitutional and void and contrary to and in violation of the 14th Amendment to the Con-

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stitution of the United States in that said Act is an attempt to deprive this defendant of its property without due process of law, and denies to this defendant the equal protection of the laws."

This assignment is urged for the reason that said Act is unconstitutional and void and contrary to and in violation of the 14th Amendment to the Constitution of the United States and would deprive this Defendant (Plaintiff in Error) of its property without due process of law, and would deny to this Defendant (Plaintiff in Error) the equal protection of the laws as fully set forth in said ground of Demurrer, in that it imposes upon employers and upon this Defendant (Plaintiff in Error) herein unlimited liability for injuries sustained by employees without fault or negligence on the part of such employers and of this Defendant (Plaintiff in Error).

IV.

That the Court erred in not sustaining the objection of the Defendant (Plaintiff in Error) to the making of any statement to the jury on behalf of the Plaintiff (Defendant in Error) and to the introduction of any evidence on behalf of the Plaintiff (Defendant in Error) which objection, in which is stated the grounds thereof, is as follows, to-wit:

“By Mr. Stahl: If the Court please, we object to any statement of the Plaintiff or the introduction of any evidence in this case, on the ground that this action is brought under the provisions of what is known as the Employers’ Liability Act, which is Chapter 6, Title 14, of the Revised Statutes of Arizona, 1913, entitled ‘An Act Providing for Liability of Employers for Injuries to Workmen in Dangerous Occupations,’ on the ground that this act under which the action is brought is unconstitutional and in violation of the Fourteenth Amendment to the Constitution of the United States, in that the act imposes an unlimited liability upon employers and upon this Defendant without any fault on its part and that the act violates the Fourteenth Amendment to the Constitution of the United States and that it will deprive the Defendant of its property without due process of law and would deny to the Defendant the equal protection of the law, and that the Amended Complaint brought under this act does not state facts sufficient to constitute a cause of action, for the reason that the act under which the Amended Complaint is brought is unconstitutional.”

V.

That the Court erred in overruling and denying the Motion and request of the Defendant (Plaintiff in Error) to instruct the jury to return a verdict in favor of the Defendant (Plaintiff in Error) and against the Plaintiff (Defendant in Error) after the introduction of all testimony in the case, and upon the Defendant (Plaintiff in Error) resting its case, which Motion and request is as follows and made upon the grounds therein stated, to-wit:

“Comes now the Defendant in the above entitled cause and hereby moves the Court to charge the jury as set forth in its request Number 1 and bases its said motion to so charge as set forth in said request Number 1 upon the grounds set forth immediately following said request.

Number 1.

The jury is hereby instructed and directed to render a verdict in favor of the Defendant and against the Plaintiff herein.

The foregoing motion to direct the jury to render a verdict in favor of the Defendant and against Plaintiff is made and based upon the following grounds:

(a) That the cause of action in the Amended Complaint of the Plaintiff upon which he is now relying, is expressly based upon and recovery is therein expressly sought under the provisions of Chapter 6, Title 14, Revised Statutes of Arizona, 1913, Civil Code, said Act being entitled: 'Liability of Employers for Injuries to Workmen in Dangerous Occupations.' That said Act is unconstitutional and void and Plaintiff is entitled to no recovery or relief thereunder for the reason that said Act imposes upon this Defendant unlimited liability for injury or injuries sustained by Plaintiff without fault or negligence on the part of this Defendant, and said Act is contrary to and in violation of the Fourteenth Amendment to the Constitution of the United States in that it deprives this Defendant of its property without due process of law and denies to this Defendant the equal protection of the laws."

34 Wherefore, Defendant (Plaintiff in Error) prays that the Judgment of said Court be reversed.

RAY CONSOLIDATED COPPER COMPANY.

By WILLIAM H. KING.

CHALMERS, KENT & STAHL,

Attorneys for Defendant.

Endorsements: "In the District Court of the United States in and for the District of Arizona. Dan Veazey, Plaintiff (Defendant in Error) vs. Ray Consolidated Copper Company, a corporation, Defendant (Plaintiff in Error). At Law No. 163. Assignments of Error and Prayer for Reversal. Service of a copy of within acknowledged this — day of June, 1917. — — —, Attorney for Plaintiff (Defendant in Error). Filed June 9th, 1917. Mose Drachman, Clerk."

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Stipulation.

In the District Court of the United States in and for the District of Arizona.

#163.

DAN VEAZEY, Plaintiff (Defendant in Error),

vs.

RAY CONSOLIDATED COPPER COMPANY, a Corporation, Defendant
(Plaintiff in Error).

The Plaintiff (Defendant in Error), Dan Veazey, by his Attorneys, hereby acknowledges receipt of a copy of the following papers on Writ of Error in this cause:

1. Petition for Writ of Error.
2. Assignments of Error.
3. Proposed Order Granting Writ of Error.
4. Proposed Writ of Error.
5. Proposed Supersedeas Bond.

Waiver is hereby made of any objection to the form thereof, and consent is hereby given that said Supersedeas Bond may be approved.

Dated this 8th day of June, 1917.

STRUCKMEYER & JENCKES,

Attorneys for Plaintiff

(Defendant in Error).

Endorsements: "No. —. In the District Court of the United States, in and for the District of Arizona. Dan Veazey, Plaintiff (Defendant in Error) vs. Ray Consolidated Copper Company, a corporation, Defendant (Plaintiff in Error). Stipulation. Filed June 9th, 1917. Mose Drachman, Clerk. Chalmers, Kent & Stahl, 205-208 Fleming Building, Phoenix, Ariz., Attorneys for Defendant (Plaintiff in Error)."

Order Granting Writ of Error.

In the District Court of the United States in and for the District of
Arizona.

#163.

DAN VEAZEY, Plaintiff (Defendant in Error),

vs.

RAY CONSOLIDATED COPPER COMPANY, a Corporation, Defendant
(Plaintiff in Error).

Upon reading the Petition for Writ of Error heretofore filed in this cause by the Ray Consolidated Copper Company, Defendant (Plaintiff in Error) above named, and the Court being fully advised thereon, the said Writ of Error is granted on this 9th day of June, A. D., 1917, and all further proceedings in said cause are hereby stayed until the determination of the Writ of Error by the Supreme Court of the United States, upon the said Defendant filing a super-seedeas bond in the sum of Five Thousand Dollars, conditioned as the law directs.

Dated this 9th day of June, A. D., 1917.

WM. H. SAWTELLE, *Judge.*

Endorsements: "In the District Court of the United States in and for the District of Arizona. Dan Veazey, Plaintiff (Defendant in Error) vs. Ray Consolidated Copper Company, a corporation, Defendant (Plaintiff in Error). At Law No. 163. Order Granting Writ of Error. Service of copy of within acknowledged this — day of June, 1917. — — —, Attorney for Plaintiff (Defendant in Error). Filed June 9th 1917. Mose Drachman, Clerk."

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Writ of Error.

In the District Court of the United States in and for the District of Arizona.

#163.

DAN VEAZEY, Plaintiff (Defendant in Error),

vs.

RAY CONSOLIDATED COPPER COMPANY, a Corporation, Defendant
(Plaintiff in Error).

UNITED STATES OF AMERICA, ss:

The President of the United States to the Honorable Judge of the
United States District Court for the District of Arizona, Greeting:

Because in the records and proceedings, as also in the rendition of the judgment, of a plea which is in the said District Court before you, between Dan Veazey, Plaintiff, and Ray Consolidated Copper Company, Defendant, a manifest error has happened, to the great damage of the said Defendant, Ray Consolidated Copper Company, as by its Complaint appears, we being willing that error, if any hath been, shall be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this Writ, so that you have the same in Washington, D. C. within sixty (60) days of the date of this Writ in the said Supreme Court of the United States, to be then and there held, that the records and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done thereon to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable Edward D. White, Chief Justice of the Supreme Court of the United States, this 9th day of June, A. D., 1917.

MOSE DRACHMAN,
*Clerk of the United States District Court
for the District of Arizona.*

Allowed:

This 9 day of June A. D., 1917.

WM. H. SAWTELLE,
United States District Judge.

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[Endorsed:] In the District Court of the United States in and for the District of Arizona. At Law. No. 163. Dan

Veazey, Plaintiff (Defendant in Error), vs. Ray Consolidated Copper Company, a corporation, Defendant (Plaintiff in Error). Writ of Error. Service of copy of within acknowledged this — day of June, 1917. — — —, Attorney for Plaintiff (Defendant in Error). Filed June 9th, 1917. Mose Drachman, clerk.

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Supersedeas Bond.

In the District Court of the United States in and for the District of Arizona.

#163.

DAN VEAZEY, Plaintiff (Defendant in Error),

vs.

RAY CONSOLIDATED COPPER COMPANY, a Corporation, Defendant (Plaintiff in Error).

Know all men by these presents: That Ray Consolidated Copper Company, a corporation, as principal, and Hartford Accident and Indemnity Company, of Hartford, Connecticut, a corporation organized under the laws of the State of Connecticut and duly qualified and authorized to become surety upon bonds in the State of Arizona and in all proceedings in the United States District Court for the District of Arizona, as surety, are held and firmly bound unto Dan Veazey, in the full and just sum of Five Thousand Dollars to be paid to the said Dan Veazey, his executors, administrators or assigns, to which payment well and truly to be made we bind ourselves, our successors and assigns, jointly and severally by these presents.

The condition of the above obligation is such that

Whereas lately at a regular term of the District Court of the United States for the District of Arizona, sitting at Phoenix in said District, in a suit pending in said Court between Dan Veazey as plaintiff, and Ray Consolidated Copper Company, a corporation, as defendant, cause No. 163 on the law docket of said Court, final judgment was rendered against the said Ray Consolidated Copper Com-

pany, a corporation, for the sum of \$3,000.00 and costs, together with interest as provided by law, and the said Ray

Consolidated Copper Company, a corporation, has obtained a Writ of Error and filed a copy thereof in the Clerk's office of the said Court to reverse the judgment of the said Court in the aforesaid suit, and a Citation directed to the said Dan Veazey, defendant in error, citing him to be and appear before the Supreme Court of the United States, at Washington, D. C., according to law within sixty (60) days from the date thereof.

Now the condition of the above obligation is such that if the said Ray Consolidated Copper Company shall prosecute its Writ of Error to effect and answer all damages and costs if it fails to make its plea

good, then the above obligation to be void, else to remain in full force and virtue.

In witness whereof, the Ray Consolidated Copper Company, has caused these presents to be executed by Chalmers, Kent & Stahl, its Attorneys, and the Hartford Accident and Indemnity Company, of Hartford, Connecticut, has caused these presents to be executed by Alexander B. Baker, its Attorney in Fact, and attested by Julian A. Ganz, its Attorney in Fact, this 9th day of June, A. D. 1917.

RAY CONSOLIDATED COPPER COMPANY,

By CHALMERS, KENT & STAHL,
Its Attorneys.

HARTFORD ACCIDENT AND INDEMNITY COMPANY, HARTFORD, CONN.,

By ALEXANDER B. BAKER,
Attorney in Fact.

[CORPORATE SEAL.]

Attest:

JULIAN A. GANZ,
Attorney in Fact.

Approved this the 9th day of June, A. D. 1917.

WM. H. SAWTELLE, *Judge.*

42 Endorsements: "No. —. In the District Court of the United States, in and for the District of Arizona. Dan Veazey, Plaintiff (Defendant in Error) vs. Ray Consolidated Copper Company, a corporation, Defendant (Plaintiff in Error). Superseas Bond. Filed June 9th, 1917. Mose Drachman, Clerk."

43 *Citation.*

In the District Court of the United States in and for the District of Arizona.

#163.

DAN VEAZEY, Plaintiff (Defendant in Error),

vs.

RAY CONSOLIDATED COPPER COMPANY, a Corporation, Defendant
(Plaintiff in Error).

The President of the United States to Dan Veazey and to Struckmeyer & Jenckes, your Attorneys, Greeting:

You are hereby cited and admonished to be and appear at a session of the Supreme Court of the United States, to be holden in

the City of Washington, D. C., within sixty (60) days from the date of this Writ, pursuant to a Writ of Error filed in the clerk's office of the District Court of the United States for the District of Arizona, wherein Ray Consolidated Copper Company is Plaintiff in Error and you are Defendant in Error, to show cause, if any there be, why the judgment in said Writ of Error should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Edward D. White, Chief Justice of the Supreme Court, this 9th day of June, A. D., 1917.

WM. H. SAWTELLE,
*United States District Judge
for the District of Arizona.*

Service of a copy of the within Citation is hereby admitted.
Dated Phœnix, Arizona, this 9th day of June, A. D., 1917.

STRUCKMEYER & JENCKES,
*Attorneys for Plaintiff
(Defendant in Error).*

44 [Endorsed:] In the District Court of the United States in and for the District of Arizona. Dan Veazey, Plaintiff (Defendant in Error) vs. Ray Consolidated Copper Company, a corporation, Defendant (Plaintiff in Error). Citation. Service of copy of within acknowledged this — day of June, 1917. —, Attorney for Plaintiff (Defendant in Error). Filed June 9th, 1917. Mose Drachman, clerk.

45 *Stipulation for Præcipe for Transcript of Record.*

In the United States District Court for the District of Arizona.

No. 163 (Phœnix).

DAN VEAZEY, Plaintiff (Defendant in Error),

vs.

RAY CONSOLIDATED COPPER COMPANY, a Corporation, Defendant
(Plaintiff in Error).

It is hereby stipulated by and between the plaintiff (defendant in error) in the above entitled cause, by his attorneys of record, and by the defendant (plaintiff in error) in the above entitled cause, by its attorneys of record, that the Clerk of the above named Court may prepare a transcript of the complete record in the above entitled cause, to be filed in the office of the Clerk of the Supreme Court of the United States at Washington, D. C., under the Writ of Error to be perfected to said Court in said cause, and shall only include in said transcript the following proceedings, pleadings, papers, records and files, to-wit:

1. Complaint of plaintiff, filed Oct. 28, 1916;
2. Answer and demurrer of defendant, filed November 17, 1916;
3. Minute entry and order of March 2, 1917, sustaining defendant's demurrer as to Paragraph III of plaintiff's complaint and overruling same as to remaining paragraphs thereof;
4. Amended Complaint of plaintiff, filed March 3, 1917;
5. Minute entry and order of April 2, 1917, of election of defendant to stand upon original demurrer and answer and overruling of demurrer;
- 46 6. Minute entries of proceedings in this cause under dates of April 5th, April 6th and April 7th, 1917, including Verdict of Jury filed under date of April 7, 1917, and minute entry of Judgment of April 7, 1917;
7. Subdivision "1" of defendant's requested instructions refused by Court and filed under date of April 17, 1917;
8. Minute entry of Order granting defendant until May 16, 1917, to prepare and serve Bill of Exceptions, made under date of April 16, 1917;
9. Petition and Stipulation for extension of time until May 21, 1917, to file Bill of Exceptions, filed May 10, 1917;
10. Minute order granting to defendant extension of time to prepare and serve Bill of Exceptions;
11. Bill of Exceptions, filed May 26, 1917;
12. Petition for Writ of Error, filed June 9, 1917;
13. Assignments of Error and Prayer for Reversal, filed June 9, 1917;
14. Stipulation acknowledging receipt of copy of papers on Writ of Error and waiving objection to form, filed June 9, 1917;
15. Order Granting Writ of Error, filed June 9, 1917;
16. Writ of Error, filed June 9, 1917;
17. Supersedeas Bond on Writ of Error, filed June 9, 1917;
18. Citation, filed June 9, 1917;
19. This Stipulation for præcipe for transcript; said transcript to be prepared as required by law and the rules of this Court, and the rules of the Supreme Court of the United States.
- 47 Dated this 20th day of July, 1917.

WILLIAM H. KING,
CHALMERS, KENT & STAHL,
Attorneys for Defendant
(*Plaintiff in Error*).
STRUCKMEYER & JENCKES,
Attorneys for Plaintiff
(*Defendant in Error*).

Endorsements: "No. 163 (Phoenix). In the United States District Court for the District of Arizona. Dan Veazey, Plaintiff (Defendant in Error) vs. Ray Consolidated Copper Company, Defendant (Plaintiff in Error). Stipulation for Præcipe for Transcript of Record. Filed Jul- 20 1917. Mose Drachman, Clerk. By R. E. L. Webb, Deputy. William H. King, Chalmers, Kent & Stahl, Attorneys for Defendant (Plaintiff in Error). Struckmeyer & Jenckes, Attorneys for Plaintiff (Defendant in Error)."

Clerk's Certificate to Record.

In the United States District Court for the District of Arizona.

No. 163 (Phoenix).

DAN VEAZEY, Plaintiff (Defendant in Error),

vs.

RAY CONSOLIDATED COPPER COMPANY, a Corporation, Defendant
(Plaintiff in Error).

UNITED STATES OF AMERICA,

District of Arizona, ss:

I, Mose Drachman, Clerk of the United States District Court for the District of Arizona, do hereby certify the foregoing pages numbered 1 to 48 inclusive, to be and present a true, full, correct and complete copy of the Assignments of Error and such portions of the record and proceedings had in the above and foregoing entitled cause as are necessary to the hearing of said cause and as are stipulated to be included by counsel of record herein, as the same remain of record and on file in the office of the Clerk of said District Court, except that the original Writ of Error and Citation in Error are embraced therein at pages 37 and 43 respectively, all of which constitute a complete transcript of the record and the proceedings in the said cause on Writ of Error to the Supreme Court of the United States.

Witness my official signature and seal of said District Court at my office in the city of Phoenix, in said District, this the 20th day of July, A. D. 1917.

[Seal United States District Court, District of Arizona.]

MOSE DRACHMAN, *Clerk,*
By R. E. L. WEBB,
Deputy Clerk.

Endorsed on cover: File No. 26,070. Arizona D. C. U. S. Term No. 603. Ray Consolidated Copper Company, plaintiff in error, vs. Dan Veazey. Filed July 30th, 1917. File No. 26,070.